

REMARKS/ARGUMENTS

This is a full and timely response to the final Office Action dated February 24, 2009. Prior to the issuance of the present Office Action, Claims 1-28 were pending. In the present response, Claims 1-8, 10-15, 18, 19, 21, 24, and 25 have been amended. Claim 29 is newly added. It is respectfully submitted that pending Claims 1-29 are patentable over the cited art. As such, Applicants respectfully request reconsideration and allowance of the present claims in light of the following remarks.

35 U.S.C. §103

Independent Claim 1

At page 3 of the Office Action, the Examiner has asserted that independent Claim 1 is unpatentable in view of U.S. Patent No. 5,481,588 issued to Rickli (“Rickli”) and U.S. Patent No. 6,336,035 issued to Somoza (“Somoza”). Although Applicants do not agree with the current rejection, in order to facilitate prosecution of the present patent application, Applicants have amended the Claim 1 to further clarify the respective claimed invention.

It is respectfully asserted that the Rickli and Somoza patents, either alone or in combination, do not disclose or suggest each of the limitations recited in amended Claim 1. For example, these references fail to disclose or suggest the limitation of “identifying one or more optimal routes from among said plurality of routes based on the results of said comparing, said optimal routes comprising those most nearly satisfying said test parameters *including said time parameter and said geographic parameter.*”

The Rickli patent states in relevant part that:

“[t]he test is not tied to particular routes. On the contrary, connections are established in a fixed time frame. *The exact location of the test unit at a particular point in time is a random factor.* However, the connection may also be established on a

preprogrammed basis at specified locations. *The point in time at which this is done will then be more or less random.*"

(Rickli, Column 5, lines 15-21)(emphasis added). Since the location or the time of the test is always a random factor in the Rickli disclosed system, the Rickli system could not use *both* time and location as test parameters in determining an optimum route as would be required by amended Claim 1. Accordingly, Rickli does not disclose or suggest this limitation.

Furthermore, the Somoza patent does not mention using a time parameter in determining its new drive test route. In particular, Somoza discloses that "[d]rive test route selection is based on the proximity of a street to an antenna at a cellsite and may take into account possible architectural clutter interference and potential high traffic areas within the cell." (Somoza, Column 9, Lines 4-8). Thus, Somoza does not disclose or suggest this limitation either.

Accordingly, the Rickli and Somoza patents fail to disclose or suggest each of the limitations recited in amended Claim 1. The Applicants respectfully request the Examiner withdraw this rejection.

Dependent Claim 4

Applicants note that the references cited in the Office Action do not disclose or suggest the further limitation of dependent Claim 4. Claim 4 depends from Claim 1 and adds the limitation of "wherein said route data includes a start time corresponding to said start location, an end time corresponding to said end location, and *one or more intermediate stop durations* corresponding to said one or more intermediate stop locations." As required by Claim 1, the dispatch plan includes "route data." The intermediate stop durations added by Claim 4 are included in the "route data" and therefore are also included in the dispatch plan. Neither of the cited references discloses a dispatch plan that "compris[es] vehicle data and route data" in which the route data includes "one or more intermediate stop durations."

At page 7 of the present Office Action, the Examiner has argued that Somoza discloses the limitation recited in Claim 4 because it describes tracking the location of a *user* at a particular time. The tracking feature cited in the Office Action, however, is not part of a dispatch plan and

Appl. No.: 10/763,875
Amdt. dated May 12, 2009
Reply to Office Action of February 24, 2009

in fact is independent of the new drive test route generated by the Somoza system. The tracking feature actually identifies the location of *users* within a cell (e.g., cell phone users) where users are “subscriber[s] to the service within the cell.” (Somoza, Column 5, Lines 57-62). This is further supported by Fig. 5 in Somoza where multiple users (530) are shown dispersed throughout the illustrated cell. The circles designated as “530” are independent from the illustrated drive test route (525).

Applicants note that Rickli was not cited for the concept recited in Claim 4. Although the Office Action suggested that Rickli discloses types of vehicles that operate on expected routes with reference to other claims, there is no disclosure or suggestion that the “expected routes” would be contained in a dispatch plan that also included intermediate stop durations as required by Claim 4. Accordingly, the Somoza and Rickli patents do not disclose the further limitation recited in Claim 4. The Applicants respectfully request the Examiner to withdraw this rejection.

Dependent Claim 5

Applicants respectfully assert that the Rickli and Somoza do not disclose or suggest the further limitation recited in Claim 5. Claim 5 depends from Claim 4 which depends from Claim 1. Claim 5 adds the limitation that “said time parameter further comprises: one or more lingering parameters, each of said one or more lingering parameters comprising a linger duration, a tower identifier, and a sector identifier.” As noted in the specification, a linger duration generally relates to the amount of time a vehicle will spend in a given area. Claim 1 states that the test parameters are compared with the dispatch plan to select an optimum route. The test parameters include a time parameter that includes a linger duration for the invention recited in Claim 5. Consequently, the linger parameter, as a test parameter, is used in selecting an optimum route for the invention recited in Claim 5.

Neither of the two cited prior art references discloses establishing testing parameters that include a linger duration that is then used in selecting an optimum route. Applicants specifically note that the tracking feature disclosed in Somoza does not satisfy this limitation. As noted with reference to Claim 4, the tracking feature cited in the Office Action is not used to identify a new drive test route. Instead the Somoza tracking feature is merely used to identify the location of

Appl. No.: 10/763,875
Amdt. dated May 12, 2009
Reply to Office Action of February 24, 2009

particular cell phone users. Thus, contrary to arguments made in the present Office Action, the Somoza patent does not disclose or suggest the linger duration concept as recited in Claim 5.

Similarly, Rickli also fails to disclose or suggest this limitation. The Office Action cites to a portion of Rickli with reference to Claim 5 that discusses storing location and time data during a drive test. Once again, this data is not used to determine an optimum route and therefore cannot satisfy the linger duration limitation of Claim 5.

Thus, the Somoza and Rickli references do not disclose the linger duration limitation of Claim 5. The Applicants respectfully request the Examiner to withdraw this rejection.

Dependent Claim 8

Claim 8 depends from Claim 1 and recites the further limitation of “wherein said step of establishing test parameters further comprises: assigning a weight to one or more of said test parameters, each of said weights correlated to the importance of said one or more of said test parameters relative to the others.” Neither of the two cited references discloses the limitation added by dependent Claim 8. The Office Action only cites Rickli against Claim 8. The portions of Rickli cited in the Office Action, however, do not disclose assigning weights to test parameters. The first cited section of Rickli merely discloses that the quality of a mobile radio installation is tested using a mobile remote unit, which can determine its position and clock time (*see Col. 2, Lines 44-48*). The second cited section of Rickli discloses that the term clock within the system can register date and time. This data may be transferred to a control unit, which evaluates the data statistically (*see Col. 3, Lines 33-36*). The final section of Rickli cited in the Office Action discloses that a particular area may be tested using a plurality of vehicles (*see Col. 4, Lines 60-65*). None of these sections disclose the application of weights to testing parameters.

Applicants further note that Somoza also fails to disclose the assigning of weights to test parameters. Thus, the Somoza and Rickli references do not disclose or suggest the weighting limitation recited in Claim 8. The Applicants respectfully request the Examiner to withdraw this rejection.

Appl. No.: 10/763,875
Amdt. dated May 12, 2009
Reply to Office Action of February 24, 2009

Dependent Claims 2, 3, 6, 7, 9, and 10

Claims 2, 3, 6, 7, 9, and 10 depend from independent Claim 1 and therefore include all of the limitations of independent Claim 1 plus additional limitations that are not disclosed in the prior art. Accordingly, for this reason and for the reasons stated above, Claims 2, 3, 6, 7, 9, and 10 are patentably distinct from the cited art.

Independent Claim 11

At page 8 of the office action, the Examiner has asserted that independent Claim 11 is unpatentable in view Rickli and Somoza. Although Applicants do not agree with the current rejection, in order to facilitate prosecution of the present patent application, Applicants have amended the Claim 11 to further clarify the respective claimed invention.

Applicants respectfully assert that Rickli and Somoza, alone or in combination, fail to disclose or suggest each of the limitations recited in amended Claim 11. For example, Rickli and Somoza fail to disclose or suggest the limitation of “a fourth executable portion configured to identify one or more optimal routes from among said plurality of routes based on the results of said third executable portion, said optimal routes comprising those most nearly satisfying said test parameters *including said time parameter and said geographic parameter*” as recited in amended Claim 11. Applying the same reasoning as set forth above with reference to Claim 1, Rickli discloses that, in its drive tests, either the location or the time of the test is a random factor. Therefore, the Rickli system could not use *both* time and location as test parameters in determining an optimum route as would be required by amended Claim 11. Furthermore, the Somoza patent does not mention using a time parameter in determining its new drive test route. Accordingly, Rickli and Somoza do not disclose or suggest all of the limitations recited in amended Claim 11, and the Applicants respectfully request the Examiner to withdraw the present rejection.

Dependent Claim 14

Claim 14 depends from Claim 12 which depends from Claim 11. Claim 14 adds the limitation of “wherein said second executable portion is further configured to store route data

Appl. No.: 10/763,875
Amdt. dated May 12, 2009
Reply to Office Action of February 24, 2009

including a start time corresponding to said start location, an end time corresponding to said end location, and *one or more intermediate stop durations* corresponding to said one or more intermediate stop locations.” Applying the same reasoning as set forth with respect to Claim 4, the tracking feature cited in the Office Action is not part of a dispatch plan and in fact is independent of the new drive test route generated by the Somoza system. Thus, the tracking feature of Somoza cannot satisfy the further limitation recited in Claim 14 as argued in the Office Action. Accordingly, the Applicants respectfully request the Examiner to withdraw the present rejection.

Dependent Claim 15

Claim 15 depends from Claim 14 and adds the limitation of “wherein said first executable portion is further configured to store test parameters including a time parameter comprising: one or more lingering parameters, each of said one or more lingering parameters comprising a linger duration, a tower identifier, and a sector identifier.” Applying the reasoning set forth with respect to Claim 5, the tracking feature in Somoza is not used as a test parameter in the selection of an optimum route and therefore cannot satisfy the linger duration limitation. Similarly, the storing of location and time data as disclosed in Rickli cannot satisfy the linger duration limitation either because the stored data cannot be used to determine an optimum route. Accordingly, Rickli and Somoza, alone or in combination, fail to disclose or suggest the further limitation recited in Claim 15. The Applicants respectfully request the Examiner to withdraw this rejection.

Dependent Claim 17

Claim 17 depends from Claim 11 and adds the limitation of “wherein said first executable portion is further configured to store a weight assigned to one or more of said test parameters, each of said weights correlated to the importance of said one or more of said test parameters relative to the others.” Applying the reasoning set forth with respect to Claim 8, Rickli and Somoza, alone or in combination, fail to disclose or suggest the further limitation recited in Claim 17. Accordingly, the Applicants respectfully request the Examiner to withdraw this rejection.

Appl. No.: 10/763,875
Amdt. dated May 12, 2009
Reply to Office Action of February 24, 2009

Dependent Claims 12, 13, and, 16,

Claims 12, 13, and 16 depend from independent Claim 11 and therefore include all of the limitations of independent Claim 11 plus additional limitations that are not disclosed in the prior art. Accordingly, for this reason and for the reasons stated above, Claims 12, 13, and 16 are patentably distinct from the cited art.

Independent Claim 18

At page 9 of the Office Action, the Examiner has asserted that independent Claim 18 is unpatentable in view of Rickli and Somoza. Although Applicants do not agree with the current rejection, in order to facilitate prosecution of the present patent application, Applicants have amended the Claim 18 to further clarify the respective claimed invention.

Applicants respectfully assert that Rickli and Somoza, alone or in combination, fail to disclose or suggest each of the limitations recited in amended independent Claim 18. For example, Rickli and Somoza fail to disclose or suggest the limitation of “means for identifying one or more optimal routes from among said plurality of routes based on results from said comparing means, said optimal routes comprising those most nearly satisfying said test parameters including a time parameter and a geographic parameter, wherein said time parameter comprises a time-of-day testing window” as recited in amended Claim 18. Applying the same reasoning as set forth above with reference to Claim 1, Rickli discloses that, in its drive tests, either the location or the time of the test is a random factor, and therefore, the Rickli system could not use *both* time and location as test parameters in determining an optimum route as would be required by amended Claim 18. Furthermore, the Somoza patent does not mention using a time parameter in determining its new drive test route. Accordingly, Rickli and Somoza do not disclose or suggest all of the limitations recited in amended Claim 18. The Applicants respectfully request the Examiner to withdraw the present rejection.

Dependent Claim 21

Claim 21 depends from Claim 18 and adds the limitation of “wherein said route data includes a start time corresponding to said start location, an end time corresponding to said end

Appl. No.: 10/763,875
Amdt. dated May 12, 2009
Reply to Office Action of February 24, 2009

location, and *one or more intermediate stop durations* corresponding to said one or more intermediate stop locations.” Applying the same reasoning as set forth with respect to Claim 4, the tracking feature cited in the Office Action is not part of a dispatch plan and in fact is independent of the new drive test route generated by the Somoza system. Thus, the tracking feature of Somoza cannot satisfy the further limitation recited in Claim 21 as argued in the Office Action. Accordingly, the Applicants respectfully request the Examiner to withdraw the present rejection.

Dependent Claim 22

Claim 22 depends from Claim 21 and adds the limitation of “wherein said time parameter further comprises: one or more lingering parameters, each of said one or more lingering parameters comprising a linger duration, a tower identifier, and a sector identifier.” Applying the reasoning set forth with respect to Claim 5, the tracking feature in Somoza is not used as a test parameter in the selection of an optimum route and therefore cannot satisfy the linger duration limitation. Similarly, the storing of location and time data as disclosed in Rickli cannot satisfy this limitation either because the stored data cannot be used to determine an optimum route. Accordingly, Rickli and Somoza, alone or in combination, fail to disclose or suggest the further limitation recited in Claim 22, and the Applicants respectfully request the Examiner to withdraw this rejection.

Dependent Claim 25

Claim 25 depends from Claim 18 and adds the limitation of “a weight assigned to one or more of said test parameters, each of said weights correlated to the importance of said one or more of said test parameters relative to the others.” Applying the reasoning set forth with respect to Claim 8, Rickli and Somoza, alone or in combination, fail to disclose or suggest the further limitation recited in Claim 25. Accordingly, the Applicants respectfully request the Examiner to withdraw this rejection.

Appl. No.: 10/763,875
Amdt. dated May 12, 2009
Reply to Office Action of February 24, 2009

Dependent Claims 19, 20, 23, 24 and 26-28

In addition to the arguments presented above, Claims 19, 20, 23, 24 and 26-28 depend from independent Claim 18 and therefore include all of the limitations of independent Claim 18 plus additional limitations that are not disclosed in the prior art. Accordingly, for this reason and for the reasons stated above, Claims 19, 20, 23, 24 and 26-28 are patentably distinct from the cited art.

New Claim 29

Applicants have added new independent Claim 29, which includes the limitation of “identifying one or more optimal routes from among said plurality of routes based on results from said comparing means, said optimal routes comprising *those most nearly satisfying said test parameters including a time parameter and a geographic parameter, wherein the time parameter comprises a time-of-day testing window.*” Applying the reasoning set forth with respect to Claim 1, Somoza and Rickli do not disclose the concept of using a time parameter and a geographic parameter in selecting an optimum route as recited in Claim 29. Accordingly, the Applicants respectfully assert Claim 29 should be allowed.

CONCLUSION

The foregoing is submitted as a full and complete response to the Office Action mailed on February 24, 2009. The Applicants respectfully submit, in light of the foregoing remarks, that the present application is in consideration for allowance, and such action is respectfully requested.

It is not believed that extensions of time or fees for net addition of claims are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required therefore (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 16-0605.

Appl. No.: 10/763,875
Amdt. dated May 12, 2009
Reply to Office Action of February 24, 2009

Respectfully submitted,



Jeffrey A. Cooper
Registration No. 54,757

Customer No. 00826
ALSTON & BIRD LLP
Bank of America Plaza
101 South Tryon Street,
Suite 4000
Charlotte, NC 28280-4000
Tel Atlanta Office (404) 881-7000
Fax Atlanta Office (404) 881-7777
ELECTRONICALLY FILED USING THE EFS-WEB ELECTRONIC FILING SYSTEM OF THE UNITED STATES PATENT & TRADEMARK OFFICE ON May 12, 2009.